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ATTORNEYS FOR PLAINTIFFS

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 CHINA CENTRAL TELEVISION, a China
company; CHINA INTERNATIONAL
14 COMMUNICATIONS CO., LTD., a China
company; TVB HOLDINGS (USA), INC., a
15 California corporation; and DISH
NETWORK L.L.C., a Colorado corporation,
16 Plaintiffs,
vs.

17 CREATE NEW TECHNOLOGY (HK)
LIMITED, a Hong Kong company; HUA
18 YANG INTERNATIONAL TECHNOLOGY
LIMITED, a Hong Kong company;
19 SHENZHEN GREATVISION NETWORK
TECHNOLOGY CO. LTD., a China
20 company; CLUB TVPAD, INC., a California
corporation; BENNETT WONG, an
individual, ASHA MEDIA GROUP INC.
d/b/a TVPAD.COM, a Florida corporation;
22 AMIT BHALLA, an individual;
NEW TVPAD LTD. COMPANY d/b/a
23 NEW TVPAD.COM a/k/a TVPAD USA, a
Texas corporation; LIANGZHONG ZHOU,
24 an individual; HONGHUI CHEN d/b/a E-
DIGITAL, an individual; JOHN DOE 1 d/b/a
25 BETV; JOHN DOE 2 d/b/a YUE HAI; JOHN
DOE 3 d/b/a 516; JOHN DOE 4 d/b/a HITV;
26 JOHN DOE 5 d/b/a GANG YUE; JOHN
DOE 6 d/b/a SPORT ONLINE; JOHN DOE 7
27 d/b/a GANG TAI WU XIA; and JOHN DOES
8-10,

28 Defendants.

) Case No.
CV 15-1869 MMM (AJWx)
}) **JOINT RULE 26(F) REPORT**
})
}) Scheduling Conference:
}) August 31, 2015 at 9:00 a.m.

1 Plaintiffs China Central Television (“CCTV”), China International
 2 Communications Co., Ltd. (“CICC”), TVB Holdings (USA), Inc. (“TVB”), and
 3 DISH Network L.L.C. (“DISH”) (collectively, “Plaintiffs”) and Defendants Club
 4 TVpad, Inc., Bennett Wong, Asha Media Group Inc. d/b/a TVpad.com, Amit Bhalla,
 5 and Honghui Chen d/b/a e-Digital (collectively, the “Distributor Defendants”),
 6 hereby submit the following Joint Report in accordance with Federal Rule of Civil
 7 Procedure 26(f), Local Rule 26-1, and the Court’s Order re Order Setting Scheduling
 8 Conference.

9 In late June and early July of 2015, Lacy H. Koonce, III, counsel for
 10 Plaintiffs, met and conferred with counsel for the Distributor Defendants to discuss
 11 the matters specified in Fed. R. Civ. P. 26(f) and Local Rule 26: on June 30, 2015,
 12 Mr. Koonce met and conferred with Mark Clark, counsel for Asha Media Group Inc.
 13 and Amit Bhalla, and separately with Jeff Lee, counsel for Honghui Chen; and on
 14 July 7, 2015, Mr. Koonce met and conferred with Francis Ryu, counsel for Club
 15 TVpad, Inc. and Bennet Wong. Defendants Create New Technology (HK) Limited
 16 (“CNT”) and Hua Yang International Technology Ltd. have defaulted.¹ The results
 17 of the meetings between counsel for Plaintiffs and counsel for the Distributor
 18 Defendants are summarized below:

19 **A. STATEMENT OF THE CASE**

20 Plaintiffs filed this action on March 13, 2015. Plaintiffs allege claims against
 21 the Distributor Defendants for: (1) secondary copyright infringement under the
 22 copyright laws of the United States, 17 U.S.C. § 101 *et seq.*; (2) federal trademark
 23 infringement and unfair competition under the Lanham Act, 15 U.S.C. § 1125(a); (3)

24
 25
 26 ¹ Defendant Shenzhen Greatvision Network Technology Co. Ltd., a Chinese
 27 company, is being served under the Hague Convention, but service has not yet been
 28 completed. Defendants newTVpad Ltd. Company and Liangzhong Zhou have
 stipulated to a consent judgment and permanent injunction, which stipulation was
 filed July 16, 2015.

1 common law trademark infringement and unfair competition; (4) and violation of
 2 California Business and Professions Code § 17200, *et seq.*

3 **1. Plaintiffs' Statement of the Case**

4 This copyright and trademark infringement action arises out of a global pirate
 5 television service provided to customers over the “TVpad” set-top box. For a one-
 6 time, up-front payment to purchase the TVpad device, TVpad customers in the
 7 United States receive unlicensed television channels and television programs from
 8 China, Hong Kong, Taiwan, and other Asian countries. Among the victims of this
 9 piracy are Plaintiffs CCTV and Television Broadcasts Limited (Plaintiff TVB’s
 10 Hong Kong-based parent company), which are the largest broadcasters of Chinese-
 11 language television in mainland China (CCTV) and Hong Kong (TVB), and also
 12 DISH, which holds certain exclusive rights to distribute CCTV and TVB
 13 programming in the United States.

14 Plaintiffs are the legal and beneficial owners of exclusive rights to exploit
 15 copyrighted CCTV and TVB television programming in the United States. Among
 16 the bundle of rights afforded Plaintiffs under United States copyright law is the
 17 exclusive right to “perform the copyrighted work publicly.” 17 U.S.C. § 106(4). This
 18 includes the exclusive right “to transmit or otherwise communicate a performance or
 19 display of” Plaintiffs’ copyrighted television broadcasts and programs “to the public
 20 by means of any device or process whether the members of the public capable of
 21 receiving the performance or display receive it in the same place or in separate places
 22 and at the same time or at different times.”

23 Defendants Create New Technology (HK) Limited (“CNT”), Shenzhen
 24 GreatVision Network Technology Co., Ltd. (“GVTV”), and Hua Yang International
 25 Technology Ltd. (“HYIT”) (collectively, the “CNT Group”), acting in concert with a
 26 common purpose and scheme, have set up a pirate broadcasting network that, without
 27 permission and without compensation to Plaintiffs, brazenly captures entire CCTV
 28 and TVB television channels and video-on-demand programming from Asia and

1 streams that programming over the Internet to United States users of the TVpad
 2 device, twenty-four hours a day, seven days a week (the “TVpad Retransmission
 3 Service”). The CNT Group monetizes the TVpad Retransmission Service by selling
 4 the TVpad device to the public, including United States consumers, for
 5 approximately \$300 per unit at retail. Each TVpad device includes the “TVpad
 6 Store,” a software interface that automatically provides to TVpad users, free of
 7 charge, software applications or “apps” that enable them to access, view, and share
 8 infringing streams of television programming in the United States. Many of the
 9 TVpad’s most popular and heavily promoted apps unlawfully retransmit CCTV and
 10 TVB programming from Asia to TVpad users in the United States (the “Infringing
 11 TVpad Apps”).

12 The TVpad Retransmission Service accomplishes this massive piracy in part
 13 through a peer-to-peer network—like Napster, Grokster, and BitTorrent, but
 14 designed to stream video content rather than to download media files. Through this
 15 peer-to-peer network, TVpad users not only receive unauthorized streams of CCTV
 16 and TVB programming in the United States, but also simultaneously retransmit that
 17 programming to large numbers of other TVpad users in the United States. The
 18 TVpad Retransmission Service also directly streams CCTV and TVB programs to
 19 U.S. TVpad users from servers located in the United States and elsewhere.
 20 The CNT Group Defendants are directly and/or indirectly responsible for, (a) the
 21 capturing of CCTV’s and TVB’s broadcasts in Asia and the infringing retransmission
 22 of that programming over the Internet to TVpad users in the United States; and (b)
 23 the development, maintenance, and dissemination of the Infringing TVpad Apps.
 24 The CNT Group Defendants directly infringe Plaintiffs’ copyrighted television
 25 programs by publicly performing those programs without consent. The CNT Group
 26 Defendants are also liable as secondary infringers for taking intentional and
 27 affirmative steps that enable, cause, materially contribute to, promote, encourage,
 28

and/or induce the infringing public performances of Plaintiffs' copyrighted programs by TVpad customers.²

The Distributor Defendants have advertised, sold, and distributed the TVpad device in the United States, and are part of the CNT Group's international distribution network for the TVpad Retransmission Service. Each of the Distributor Defendants has actual and constructive knowledge that the TVpad Retransmission Service infringes CCTV and TVB programming and each Distributor Defendant has taken affirmative steps to aid, materially contribute to, promote, foster, and induce infringing public performances of CCTV and TVB programming by the Retransmission Service Defendants and by TVpad customers using the peer-to-peer network. Accordingly, each Distributor Defendant is liable for secondary copyright infringement.

The CNT Group defendants and the Distributor Defendants have all also used CCTV's and TVB's trademarks and/or logos, *inter alia*, in connection with their advertising and promotion of the TVpad Retransmission Service, the Infringing Tvpad Apps and/or the TVpad device.

As a result of Defendants' unlawful conduct, Plaintiffs are entitled to damages against each CNT Group defendant and each Distributor Defendant for copyright infringement, trademark infringement, unfair competition, and violation of California Bus & Prof. Code § 17250, as well as preliminary and permanent injunctive relief barring each Defendant from (i) publicly performing and/or reproducing Plaintiffs' copyrighted works in the United States; (ii) inducing, encouraging, causing, facilitating, and/or materially contributing to the unauthorized public performance

² CNT and HYIT have now defaulted, and thus Plaintiffs' allegations that the CNT Group is responsible for creating and maintaining the infringing TVpad applications are deemed admitted as to CNT and HYIT. As noted, Plaintiffs are still attempting to serve GVTV through the Hague Convention.

1 and/or reproduction of Plaintiffs' copyrighted works in the United States by others;
 2 (iii) infringing Plaintiffs' trademarks and service marks; or (iv) engaging in unfair
 3 competition.

4 **2. Defendants' Statements of the Case**

5 **a. Asha Media/Amit Bhalla**

6 Plaintiff claims Asha Media is a contributory infringer through its sale of the
 7 TV Pad. Defendants deny the sale of the devices infringes Plaintiffs' copyrights and
 8 that Plaintiff cannot establish the requisite test to prove contributory infringement nor
 9 willfulness against Defendants. Defendants deny the remaining claims. As a
 10 distributor of the TV Pad device Defendants deny the remaining claims seeking to
 11 impose liability for trademark infringement or unfair competition as there was no use
 12 by these Defendants of Plaintiffs marks. There is no basis in fact for holding
 13 Defendant Bhalla personally liable for the acts of Defendant Asha Media as there
 14 will be no showing of factors requisite for piercing the corporate veil in this case.

15 **b. ClubTVPad/Bennett Wong**

16 ClubTVPad is a California corporation. Bennett Wong is its sole shareholder.
 17 ClubTVPad was formerly a distributor of the TVPad device. It would purchase the
 18 devices from CNT, then advertise it for sale to potential customers through its
 19 website. ClubTVPad denies that it had actual or constructive knowledge as to the
 20 potentially infringing nature of the TvPad device as claimed by the plaintiffs.
 21 ClubTVPad ceased its attempts to sell the TvPad device once it received a cease and
 22 desist letter from plaintiffs. Moreover, as of the date of this report, ClubTVPad is in
 23 compliance with the Court's preliminary injunction Order.

24 **c. Honghui Chen**

25 Defendant Chen denies that he is liable for Plaintiffs' claims of copyright
 26 infringement, trademark infringement, unfair competition, and violation of California
 27 Bus & Prof. Code § 17250. Defendant Chen had no actual or constructive
 28 knowledge that the TVpad Retransmission Service infringes CCTV and TVB

1 programming. Neither did Defendant Chen have the intent to induce users of the
 2 TVpad for any infringing use of the device. Defendant Chen was not made aware
 3 that selling the accused TVPad devices (from first the fourth generations) would be
 4 an illegal act, for the facts below, not exhaustively:

- 5 1. Defendant Chen was informed, in writing, by CNT that the TVPad products
 2 were authorized by TVB; CNT asked many U.S. distributors/re-sellers,
 3 including Defendant Chen, to help the attack and elimination of other
 4 “pirate boxes” that provided TVB content illegally. Defendant Chen was
 5 informed, in writing, by CNT that it paid huge sums to purchase TVB
 6 copyright, and is thus protected by TVB, so that re-sellers can do their best
 7 to sell TVPad in the U.S. market.
- 8 2. Defendant Chen was requested, in writing, by CNT to collect and forward
 9 to CNT information about set-top boxes that can view TVB programs, and
 10 CNT will pass the information to TVB, who will “doom” those pirate boxes
 11 in a week, and will further send enforcement personnel to engage in
 12 “fishing enforcement” that will result in institution of suits against the
 13 distributors selling illicit TVB boxes.
- 14 3. Defendant Chen was informed, in writing, by CNT that TVPad4 provides
 15 high-def and smooth viewing quality and there is no legal risk, and that
 16 CNT will work with TVB to fight those set-top boxes and distributor who
 17 sells illegal and low-priced TVB content.
- 18 4. Defendant Chen was asked, in writing, by CNT, to only engage in lawful
 19 marketing and business activities when selling CNT’s TVpad4 products in
 20 the Los Angeles area.
- 21 5. To the extent certain advertisement material disseminated by Chen would
 22 involve trademark claims of TVB and/or CCTV, the material was provided
 23 by CNT. Defendant Chen did not create, select or substantively participate
 24 in the advertisement material content’s trademark usage.

- 1 6. Defendant Chen's "Ad" in Sing Dao Newspaper was done directly between
 2 CNT and Sing Dao.
- 3 7. Defendant Chen received a Nov. 2012 notice from TVB counsel that his
 4 act of selling the TVPads would have legal issues; Defendant Chen
 5 immediately ceased selling TVPads upon such notice. After receiving
 6 reassurance from CNT and observation of the acts by others, Defendant
 7 Chen relied on CNT's statement that selling the TVpad is legal and
 8 resumed selling TVPads. Defendant Chen has ceased selling TVPads after
 9 being served with Summons and Complaint in this action.

10 **B. MOTIONS**

11 Plaintiffs anticipate filing (a) a motion for default judgment against CNT and
 12 HYIT, and (b) a motion for contempt against CNT by reason of its failure to comply
 13 with the Court's preliminary injunction order. Plaintiffs and the Distributor
 14 Defendants do not anticipate filing any procedural motions, such as motions seeking
 15 to add other parties or claims, file amended pleadings, or transfer venue. In any
 16 event, should either party seek to file such a motion, the Parties have agreed that the
 17 cut-off date for motions to add parties and amend pleadings be August 17, 2015.

18 **C. MANUAL FOR COMPLEX LITIGATION**

19 The Parties have agreed that none of the procedures of the Manual for
 20 Complex Litigation should be utilized for this case.

21 **D. STATUS OF DISCOVERY**

22 Plaintiffs anticipate taking one deposition for each Distributor Defendant, and
 23 propounding written discovery. Defendants Asha Media and Amit Bhalla anticipate
 24 written discovery in the form of interrogatories and request for production of
 25 documents only. Defendants ClubTvPad and Bennett Wong do not anticipate
 26 conducting discovery in this matter at this time. Defendant Honghui Chen plans to
 27 serve some written discoveries including interrogatories, requests for document
 28 production and requests for admission, and is contemplating taking depositions.

1 Defendant Chen has limited funds and resources to engage in full-scale discovery
 2 and litigation. Defendant Chen seeks to settle early; settlement discussion is ongoing.

3 **E. DISCOVERY PLAN**

4 1. The Parties have agreed to provide the information required by Federal
 5 Rule of Civil Procedure 26(a)(1) on or before July 31, 2015.

6 2. Discovery does not need to be conducted in phases or otherwise limited
 7 at this time, nor does discovery need to be limited to particular issues.

8 3. There are no issues concerning discovery or disclosure of electronically
 9 stored information at this time.

10 4. The Parties are in the process of reviewing relevant materials that may
 11 be produced in the course of discovery. Plaintiffs anticipate the need for a Protective
 12 Order for confidential information contained in any requested documents regarding
 13 their business practices.

14 5. Non-expert Discovery: The Parties have agreed on a deadline for non-
 15 expert discovery of December 31, 2015.

16 6. The Parties do not anticipate any changes being necessary to the
 17 limitations on discovery imposed under the Federal Rules of Civil Procedure and the
 18 Local Rules for the Central District of California. Defendants, however, reserve the
 19 right to request more than the allotted time to take the depositions of Plaintiffs.

20 7. Expert Discovery: The Parties do not anticipate calling expert
 21 witnesses, but reserve the right to do so as necessary. To the extent expert witnesses
 22 are necessary, the parties have agreed that expert reports on claims or defenses on
 23 which a party has the burden of proof shall be served on or before January 29, 2016,
 24 and that the opposing party on such claims or defenses shall serve rebuttal expert
 25 reports on or before February 29, with a discovery cut-off for expert witnesses of
 26 March 14, 2016.

27 8. The Parties do not request any further orders from the Court in
 28 connection with this scheduling conference.

F. DISCOVERY CUT-OFF

As noted above, the Parties have agreed that (a) the cut-off for non-expert fact discovery shall be December 31, 2015, and (b) the cut-off for expert discovery shall be March 14, 2016.

G. DISPOSITIVE MOTIONS

Plaintiffs anticipate filing a motion for default judgment against CNT and HYIT. Plaintiffs also anticipate filing a Motion for Summary Judgment against the Distributor Defendants at the close of discovery.

Defendants Asha Media and Amit Bhalla anticipate filing Motions for Summary Judgment for dismissal of Plaintiffs' claims at the close of discovery. Defendants ClubTvPad and Bennett Wong currently do not anticipate the filing of a dispositive motion at this time. Defendant Honghui Chen may bring dispositive motions, depending on the status of discovery and settlement negotiation.

The Parties have agreed that the last day to file motions will be March 28, 2016. By preparing this joint report, the Parties have not waived any requirements under the local rules of court.

H. SETTLEMENT

The Parties have generally discussed potential settlement of this action. At this stage, with discovery just beginning, the Parties have not yet reached common ground with regard to settlement. The Plaintiffs and all defendants other than Honghui Chen prefer Settlement Procedure No. 3 under L.R. 16-15.4, which provides that the Parties shall mediate this action before a private mediator. Defendant Honghui Chen prefers Settlement Procedure No. 2, with a Pro Bono panel member hosting an ADR session (3-hour free of charge).

I. TRIAL

1. Pretrial Conference and Trial:

The proposed dates for the final pretrial conference and trial are:

Final Pre-Trial Conference: June 6, 2016

1 Trial Date: June 14, 2016

2 **2. Trial Estimate:**

3 The Parties anticipate the trial will last approximately 3-5 days. Plaintiffs have
4 requested a jury trial. Discovery is just beginning, but currently Plaintiffs anticipate
5 calling approximately four witnesses, excluding experts and rebuttal witnesses. In
6 addition, defendants Asha Media, Amit Bhalla, ClubTvPad and Bennett Wong
7 anticipate calling approximately 2 witnesses, excluding experts and rebuttal
8 witnesses. Defendant Chen may call 2 – 3 witnesses, depending on the status of
9 discovery.

10 **3. Trial Counsel:**

- 11 a) Lacy H. Koonce, III, Robert D. Balin and Carla A. McCauley for
12 Plaintiffs;
13 b) Mark Clark for Asha Media Group Inc. and Amit Bhalla; Jen-
14 Feng Lee for Honghui Chen; and Francis Ryu for Club TVpad,
15 Inc. and Bennet Wong.

16 **J. INDEPENDENT EXPERT OR MASTER**

17 Given the nature of this action, the Parties agree that this *is not* a case where
18 the Court should consider appointing a master pursuant to Fed. R. Civ. P. 53 or an
19 independent scientific expert.

Matter	Date
Last Day to File Motions to Add Parties and Amend Pleadings	August 17, 2015
Fact Discovery Cut-off	December 31, 2015
Last Day to Serve Expert Reports on Issues on Which Party Has Burden of Proof	January 29, 2016
Last Day to Serve Rebuttal Expert Reports	February 29, 2016
Expert Discovery Cut-Off	March 14, 2016

1	Last Day to File Motions (except <i>Daubert</i> and all other Motions in Limine)	March 28, 2016
3	Final Pre-Trial Conference	June 6, 2016
4	Trial	June 14, 2016

5
6 DATED: August 21, 2015

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8
9
10 By: _____ /s/Carla A. McCauley
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12
13
14 DATED: August 21, 2015

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17
18
19 DATED: August 21, 2015

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24 DATED: August 21, 2015

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28 DATED: August 21, 2015

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